

ENVIRONMENTAL PROTECTION COMMISSION  
GENERAL MEETING  
MEETING MINUTES  
JANUARY 5, 2005

The meeting was called to order at 7:30 P.M. in Room 206 of the Darien Town Hall

Commission Members Present: Reese Hutchison, Peter Hillman, Susan Cameron, Nina Miller, Ellen Kirby, Peter Kenyon, Ned Lewis

Commission Staff Present: David Keating

Mr. Hillman stated that to accommodate many of the public in attendance, the EPC would start with the old business first.

**Discussion of Sediment and Erosion Controls for the Darien High School Project, EPC-49-2001, Board of Education, 80 High School Lane.**

Joseph Canas of Tighe and Bond addressed the Board. He stated that the maintenance of erosion controls at the Darien High School grounds had improved. Mr. Hutchinson wondered if the ball field was affected by the conditions and asked what was the status of the erosion controls. Mr. Canas stated that the problem has been stabilized since December 22, there has been increased protection of the soccer field, and that information is given in a weekly report.

Ms. Cameron stated that she walked around the site and was indeed impressed but there did exist garbage that needed to be removed and noted some erosion behind the fence in one area. But, there had been high improvement since August.

Mr. Hillman asked if there was anyone at the meeting that had any questions that can be presented now but addressed at the next public hearing.

A resident of 5 Holly Lane addressed the Commission. She expressed concerns about flooding on Holly Lane during the past summer and fall due to the new high school building and parking areas being in place while the old building and paved parking are still there. Mr. Hillman stated that if there were problems on Holly Lane right now, the Board of Finance, the Department of Public Works Department and the Selectmen would discuss those matters. He did not think that the EPC had jurisdiction over such problems.

Mr. Hillman asked if anyone else had any questions. Ms. Cheryl Russell asked if she could bring up matters related to the hearing on EPC 5-2005 Darien High School Building Committee, 8 High School Lane. Mr. Hillman said that that would wait until the old business has concluded.

Mr. Hillman then read the next agenda item:

**EPC-108-2004, David & Barbra Bell, 50 Buttonwood Lane,** proposing asphalt driveway, stonewall, footbridge, path, and selective clearing and related activities within the regulated area. The property is located on the south side of Buttonwood Lane approximately 630' east of the intersection of Buttonwood Lane and Mansfield Avenue, shown on Assessor's Map #10 as Lot #48.

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Mr. David Bell addressed the Commission. He stated that the kids use the paths that run through his property, which is in the wetlands area. Many of the paths have poison ivy and overgrown greenery. He plans to clean up the area to make the path user-friendly. Ms. Cameron stated that the plans that were submitted were not detailed enough and he needs to indicate just what he plans to do. Mr. Bell produced pictures and asked the Commission to view the pictures. Ms. Cameron asked if the buffer along the edge would be expanded. Mr. Bell said it would not be.

Ms. Miller asked Mr. Bell why the paths were there. Mr. Bell said that they were there to make it easier for passage. Mr. Hillman asked Mr. Keating if he felt new and more detailed drawings would be needed. Mr. Keating said yes, and that Mr. Bell would have 65 days to make the decision to either withdraw or re-submit. Mr. Bell acknowledged.

Mr. Bell said that the trailers associated with the construction of additions to the house would be removed from the regulated area around the wetlands. Mr. Hillman informed Mr. Bell that he needed to put that in writing and on the plans, all of the proposed work, otherwise the Commission could not consider his application to be complete. Mr. Bell said that he would. This matter will be on the agenda for the February meeting.

Mr. Hillman then read the next agenda item:

**EPC-109-2004, Nick Jordan, 260 West Avenue**, proposing construction of a two-car garage, addition, storm drainage pipe and related site work within regulated area. The property is located on the north side of West Avenue approximately 235' east of the intersection of West Avenue and Edgerton Street, shown on Assessor's Map #21 as Lot #4.

Mr. Hillman noted that Mr. Jordan was not present and that revised plans had been submitted only in part. The new drawing shows the proposal to extend the 48" diameter pipe, but the required engineering information and the letter of authorization from the neighbor that shares the ownership of the pipe had not been submitted. Only 1/3 of the necessary information for the pipe installation was submitted and the Commission should not consider it a valid amendment of the original permit request.

The Commission discussed the original proposal to construct the addition to the house very close to the existing watercourse. They agreed that a better design for the addition was possible and that the proposal was not acceptable because it could negatively impact the watercourse and/or nearby wetlands. Mr. Jordan had previously informed the Commission that he would be in Florida for the rest of the winter, so it was not practical or productive to conduct a public hearing regarding the original proposal or the pipe extension amendment. Mr. Hillman moved to deny the application without prejudice due to lack of information. Mr. Lewis seconded that motion. All were in favor of the motion and the application was denied without prejudice.

Mr. Hillman then read the next agenda item:

**EPC-110-2004, Woodway Country Club, 540 Hoyt Street (a.k.a. 412 Hoyt Street)**, proposing dredging of two ponds and maintenance activity within regulated area. The property is located on the west side of Hoyt Street approximately 2,000' north of the intersection of Hoyt Street and Woodway Road, shown on Assessor's Map #9 as Lot #137.

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Mr. Keating informed the Commission that the applicant would not be available to attend a meeting until March. The time period to process the application would expire by then, but the applicant has submitted a letter dated January 4<sup>th</sup> consenting to a 65 day extension of the time period. The Commission agreed to place this matter on the March agenda so that the applicant could be present to explain the proposal.

Mr. Hillman then read the next agenda item:

**EPC 81 –2004 - Dianne Saitta, 16 Arrowhead Way.** Request made on December 1, 2004 for inspection of plantings.

Mr. Hillman stated that no one went out to inspect and would like to delegate that to Mr. Keating.

At 8:00 p.m. Mr. Hillman concluded old business and stated that the Commission would like to take a moment to address the **Approval of minutes of the meeting of October 20, 2004.**

Several minor changes were mentioned and agreed upon by all. Mr. Hillman moved to approve the minutes as amended. Mr. Lewis seconded that motion. All voted in favor except Mr. Hutchison, who abstained. Mr. Keating said he would make those changes to the minutes.

At 8:15 p.m. Mr. Hillman then stated that the Commission would now move on to **New Business**, however they would go out of sequence to accommodate the representatives and early arrivers for the Darien High School application.

**EPC 5 -2005 – Darien High School Building Committee, 80 High School Lane,** represented by Tighe & Bond, Inc. proposing modifications to the storm drainage system near the varsity baseball field on the east side of the high school site and within regulated area. The property is located on the north side of High School Lane approximately 450 west of the intersection of Middlesex Road and High School Lane and as shown on Tax Assessor's Map #9 as Lot #81.

Mr. Canas addressed the Commission. He explained that the current proposal is to install a catch basin and pipe system so that storm water runoff from the baseball field will be collected and piped under a walkway rather than traveling on top of the walkway. This will improve safety and is a minor change that will not impact the overall drainage patterns.

Mr. Hillman asked if the application warranted a public hearing. Mr. Lewis responded by saying yes. Ms. Cameron felt that this application would not affect other issues that would change where the water comes out. It might correct any existing problems. Ms. Cameron stated that there were also safety issues.

Ms. Russell, of 18 Holly Lane, addressed the board. She stated that she was representing the neighborhood residents and proceeded to read a letter that was signed by many concerned neighbors. Within that letter was a formal request for a public hearing and that letter was handed to Mr. Keating. Ms. Russell also expressed her concern about the run-off problems that might arise, at Stony Brook, due to the re-directed drainage. Mr. Hillman suggest that Ms. Russell and her neighbors express their issues at this time and then it will be decided if it will go before the next public hearing. The residents of the Holly Lane area are concerned that the construction of the High School has increased the flooding in their neighborhood, which is just downstream of the high school. At present, the old building and parking lot and site development remains in use while the

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new building and disturbed area for construction parking and construction work space is also present at the site. The neighbors feel that the increased impervious surfaces have increased the amount of surface runoff going into Stony Brook and therefore produced increased flooding that they experienced last summer and fall. Mr. Hutchison asked if the water problem at the High School was due to lack of maintenance and expressed that he was not clear as to what authority the EPC Board had on that matter with the neighbors. He also felt that the Town of Darien, the Selectmen, or someone else may try to address the flooding issue by dredging the watercourses in the Holly Lane area, but he was unclear as to where the money would come from to pay for that procedure.

Mr. Hillman stated that there will be a public hearing, and that it will be asked of the applicant to show that the proposed new catch basin and pipe system at the baseball field will not be a problem. Ms. Miller questioned as to whether or not the removal of the existing school building would help the flooding problem expressed by the Holly Lane residents. Ms. Cameron stated that someone from the Public Works Department should be at that public hearing. Mr. Keating responded by saying that there are two issues that should not be confused with each other. The big picture is the neighbors' concerns about the overall drainage situation resulting from the construction of the new high school. That issue is not before the EPC. It is more appropriate for the neighbors to discuss it with the Selectmen and the High School Building Committee. The other issue is the small picture, the application before the EPC to amend the previously approved plans to include the catch basin and pipe system near the walkway adjacent to the baseball field. The public hearing would only be about the pending application, the request to change the area near the baseball field.

Ms. Russell asked if other neighborhood residents can call a public hearing to discuss the overall drainage problem, and how would they go about accomplishing it. Mr. Hillman said that he was unsure and that she should contact Mr. Keating at Town Hall to see if it was possible for the Commission to hold another public hearing about an old application that has already been permitted. Ms. Russell asked when would the public hearing be. Mr. Keating said that the hearing is set for February 2. Mr. Hillman said that the new, pending application would be the focus at that time.

Mr. Hillman then read the next agenda item:

**EPC 3-2005 -Hemingway Construction Corp., 51 Dubois Street**, represented by Peter Sciarretta, proposing construction and development activities within 50 feet of wetland and watercourse. The property is located on the west side of Dubois Street approximately 200 feet north of the intersection of Dubois Street and Casement Street and as shown on Tax Assessor's Map #45 as Lot #77.

Mr. Peter Sciarretta addressed the Board. Mr. Hillman said that he was aware that Mr. Sciarretta has been working with Mr. Jeremy Ginsberg on this project, and he would like to focus on the activity with respect to the 50 feet set back. Mr. Sciarretta said that the plans submitted were accurate and that, at this time, the site work is at least the minimum 50 distance from the wetlands. He is requesting permission to restore the lawn and yard area within the 50 foot regulated area around the wetland and watercourse. Mr. Sciarretta said that a fence would be installed 15 feet from the drainage ditch / watercourse. It would be raised up 6 inches above ground to allow water to flow from the lawn, under the fence and to the watercourse. Ms. Miller asked why the fence be so far over and not located on the property line. Mr. Keating said if the fence were installed on the

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property line, it would be jointly owned. Mr. Sciarretta said that he planned to not disturb the edge of the lawn.

Ms. Cameron asked if any erosion existed. Mr. Sciarretta stated that he had a soil scientist survey the grounds and there was no erosion. Ms. Miller said that some of the wetland areas are on the neighbor's property.

Mr. Lewis asked if grass pavers would be more pervious rather than using an asphalt paved area for the turn-around at the driveway. Ms. Miller asked Mr. Sciarretta if he had a problem with grass pavers and he said that he did not; however the area in question is too small for any type of pavers and he would prefer to use asphalt.

Mr. Hutchinson made a motion to approve the application. Ms. Cameron seconded and all EPC members voted in favor.

Mr. Hillman then read the next agenda item:

**EPC 1 –2005 – Kevin Gilronan, 31 Richmond Drive**, proposing removal of existing structure and other related site work within regulated area. The property is located on the southeast side of Richmond Drive approximately 400 feet north and east of the intersection of Richmond Drive and the Boston Post Road and as shown on Tax Assessor's Map 12 as Lot #25.

Mr. Kevin Gilronan addressed the Commission. He handed out drawings and said that he wishes to remove part of the existing house while residing in the other side. He will build a new structure on the same site. When the new house is complete, he will demolish the remaining part of the old house and turn that area into lawn. Mr. Hillman asked about the condition of the lawn. Mr. Gilronan stated that due to the downward slope on his property, the lawn has been in bad condition, everything washes down. To address this problem, he has planted a swath of pachysandra into the grass closest to the drainage ditch and the wetlands. All of the old evergreens and hollies would remain intact. Ms. Cameron asked Mr. Keating if he knew of the history of the drainage ditch / watercourse. He said yes and that it goes out to the car wash site next to the IHOP. The conservation easement shown on Mr. Gilronan's map is actually part of the car wash site.

Mr. Hillman moved to approve the application. Ms. Cameron seconded and all EPC members voted in favor.

Mr. Hillman then read the next agenda item:

**EPC 2 –2005 - Michael & Christina Cush, 1 Tanglewood Trail**, represented by Peter C. Kurth, Architect, proposing propane gas tank and generator and other related activity within regulated area. The property is located on the north side of Tanglewood Trail at the northwest corner formed by the intersection of Tanglewood Trail and Rocatton Road and as shown on Tax Assessor's Map #18 as Lot #38.

Representing the Cushs was Mr. Peter C. Kurth, Architect. A permit, EPC #42-2003, was issued but the work that was done did not match the permit. Mr. Keating said they are now requesting an amendment of the permit to get violations corrected for the work that was already done.

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Mr. Kurth explained that there was no crawl space and they need to create a small basement to prevent water damage to the house. There are pumps that run continuously to keep the space dry and the pumps have a back up generator in the event of power failure. Mr. Kurth said that the propane tank for the generator was installed behind the garage, but in the regulated area near the watercourse. Ms. Cameron asked why it was so far from the house and why it was buried. Mr. Gurth said that the tank installer received a permit from the Building Department and made sure that the tank was far enough away from any source of combustion at the house to comply with the applicable safety codes. At the time of burial, the water table was not noticeable. Mr. Hillman asked where were the Cushs when the work was being done. Mr. Gurth said that they moved temporarily to Long Island, NY.

Ms. Cameron said that she did not feel comfortable with the tank in the ground. Mr. Keating said that the tank is near the wetland and watercourse and it is reasonable to assume that there is a high water table. The water in the ground would eventually have an effect on the tank. Mr. Gurth said that if it were not safe, the installation company would not have installed it. Mr. Hillman then said that all would feel more comfortable if the company that installed the tank would submit to the Commission a letter explaining the specifications and conditions in which the tank stands. Mr. Gurth said he would obtain that from Petro Oil and Gas and submit it. Mr. Hillman told Mr. Gurth that he should include a cover letter from his company and that this issue will be put on the agenda for the next meeting.

Mr. Hillman then read the next agenda item:

**EPC 6 –2005 – Glen Balanoff, 10 Partridge Lane**, proposing the removal of trees within regulated area. The property is located on the east side of Partridge Lane approximately 450 feet northeast of the intersection of Partridge Lane and Leroy Avenue and as shown on Tax Assessor's Map #17 as Lot # 58.

Mr. Hillman asked Mr. Balanoff if the removal would involve one or two trees. Mr. Balanoff said that it would be one tree that has two trunks. Ms. Cameron said that she has seen the tree and it needs to come down, it is very dead. She also stated that the area does need a good clean up as well. The wetland area is/ was used as a dumping area for leaves and other yard waste. Mr. Balanoff said that he agreed and would clean the debris for the area in the early spring. Mr. Hillman asked if new trees would be planted. Mr. Balanoff said that he would, probably a white oak.

At this time Mr. Hutchinson moved to approve the application, Mr. Lewis seconded and all EPC members voted in favor.

Mr. Hillman then read the next agenda item:

**EPC 4 –2005 - Michelle Proulx, 31 Highfield Lane**, proposing construction and related site development activities within regulated area. The property is located on the west side of Highfield Lane at the northwest corner formed by the intersection of Priscilla Lane and Highfield Lane and as shown on Tax Assessor's Map #6 as Lot #19.

Mr. and Mrs. Proulx explained that they have a screened in porch built in 1948 and it is in great disrepair. They would like to rebuild the porch. Mr. Hillman asked if there were two separate

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activities to go on there. Mrs. Proulx said yes, but both projects are near the Brook in back. Ms. Miller asked why would they construct a two-story porch. Mrs. Proulx explained that over the years there have been leaks on the flat roof that exist now and repairs have been made. They now would like to install a sloping roof over the porch. However, due to conditions inside the home, the only way to get a sloping roof is to go up, but it would cover a second floor window. They decided to make the replacement a two story addition so that they can get more floor space and put in a replacement window in the added second floor. Mrs. Proulx also handed out photos to help explain her situation. Mr. Hillman asked if the old drainage on the north side of the house would be removed or fixed. Mr. Proulx said it would be replaced, but that will require another application to the Commission.

Mr. Hutchinson asked when the roof was last fixed. Mrs. Proulx said in 1998. Ms. Miller asked if any trees or shrubs would be affected by this activity and Mrs. Proulx said that no trees would be coming down and the landscape would not be damaged.

Mr. Hillman asked if there was a construction sequence. Mr. Keating said that none was submitted. Ms. Cameron said that the plans show access to the back area without removing any trees and feels that they need to use protective fencing. Mr. Hillman said that that should be a stipulation.

Ms. Miller made a motion to approve the application with the stipulations that:

- 1) The trees in the regulated areas must be protected during construction.
- 2) If any trees in the wetland area and/or 50' regulated area around the wetland need to be removed for access, that the Proulx return to the Commission prior to the removal to seek an amendment of this permit.

Ms. Kirby seconded that motion and all members of the EPC voted in favor.

**Old Business:**

EPC-100-2004, David Mangini & Casey Elliot, 40 Goodwives River Road, proposing residential development, retaining walls, fill & regrading, storm water galleries, primary septic system and reserve area, and plantings, and perform related site development activities within a regulated area. The property is located on the east side of Goodwives River Road approximately 1,200' southeast of the intersection of Goodwives River Road and Old King Highway South, shown on Tax Assessor's Map #63 as Lot #106-A.

The Commission discussed the application and the following motion was made by Mr. Hillman: That the Commission adopt the following resolution to approve with conditions and stipulations the application for the development of 40 Goodwives River Road:

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TOWN OF DARIEN  
ENVIRONMENTAL PROTECTION COMMISSION  
RESOLUTION JANUARY 5, 2005

Application Number: EPC-100-2004

Applicant Names and Address: David Mangini and  
Casey Elliot  
c/o Casey Elliot  
385 Brookside Drive  
Fairfield, CT 06430

Property Address of Proposed Activity: 40 Goodwives River Road  
Darien, CT 06820

Name and Address of Applicants' Representative: Donald P. Strait and Dean Martin  
Grumman Engineering, LLC  
69 East Avenue  
Norwalk, CT 06851

Proposed Activity: Construction of a new single-family residence, driveway, retaining walls, fill  
& regrading, stormwater galleries, primary septic system and reserve area,  
and plantings, and perform related site development activities within a  
regulated area

Shown on Tax Assessor's Map #63 as Lots #106-A.

Action of the Commission: Granted with stipulations and conditions.

The Environmental Protection Commission has considered the application with due regard to the matters enumerated in Section 21a-41 of the Connecticut General Statutes as amended and in accordance with Section 10 of the Inland Wetlands and Watercourse Regulations of the Town of Darien, and has found that the proposed work is in conformance with the purposes and provisions of said sections.

This authorization refers to the application to conduct regulated activities within and adjacent to inland wetlands and a waterway within the Town of Darien. The Commission has conducted its review and findings on the bases that:

- In issuing this permit, the Commission has relied on the applicant's assurances, and makes no warranties and assumes no liability as to the structural integrity of the design or any structures, nor to the engineering feasibility or efficacy of such design.
- In evaluating this application, the Environmental Protection Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, after interested parties have had an opportunity to



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be heard at a duly noticed public hearing this permit shall be modified, suspended or revoked by the Commission.

The Environmental Protection Commission met for a public hearing for the application on November 3, 2004 and concluded the public hearing on December 1, 2004. During the EPC's hearing, the applicants' representatives presented information explaining the project and provided answers to concerns and questions raised by the Commission, Commission staff and the general public. The general public, including nearby property owners, was provided an opportunity to express their opinions and comment regarding the proposed development.

Following careful review of the submitted application materials and related analysis, the Commission, all of whose members are fully familiar with the site and its surroundings, finds:

A. PROJECT DESCRIPTION:

The application proposes the construction of a five-bedroom residence with associated septic system. The proposed regulated activities include the installation of a primary septic system and establishment of a septic reserve area within 200' of Goodwives River, and the construction of a rear patio, fill & regrading activity, installation of stormwater system, and planting within 50' of wetlands and 100' of the Goodwives River. The septic system would be constructed using a 'Living Filter' system, and would be located south and west of the proposed residence. The proposed residence and existing cottage would be connected to the municipal water and in the portion of the property farthest from the wetlands and watercourse. Twenty four feet (24') of drainage galleries would be placed north of the residence to handle runoff from the proposed driveway and parking areas.

The existing cottage would remain, but the kitchen would be removed to make the structure a guesthouse and not a separate residence. The cobblestone paved parking areas for the cottage would be removed and replaced with grass pavers. The existing gazebo that sits over the stream would be removed. New footbridges would be installed to improve access between the proposed main residence and existing cottage. These crossings have been adjusted to occur at the narrowest points of the corridor and/or span the wetlands entirely so that no activities occur within the wetland soils. Gravel paths would be installed to complete the access.

Although certain vegetation and large specimen trees will be preserved, in order to complete the project eleven trees of 12" dbh or larger would be removed. Replacement trees have been incorporated into the planting plan. Vegetated buffers would be installed between wetlands and the upland landscaped area around the house.

A conservation easement is proposed on the portion of this parcel of land on the west side of Goodwives River Road and located between the Goodwives River and Goodwives River Road. The development activity will all be on the east side of Goodwives River Road.

The current proposal is considerably different from the previous application, EPC 58-2004, which was denied without prejudice in September of 2004. That previous application had proposed many unacceptable aspects, including but not limited to: a substantial portion of the driveway within 50' of the wetlands and watercourse; the primary septic system much closer to the wetlands and

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watercourse, more grading and development activity in closer proximity to the wetlands and watercourse, and generally much more impact to the natural conditions than the current proposal.

**B. SITE DESCRIPTION:**

The ±2.27-acre property is located on the east side Goodwives River Road. The northern section of the site has been previously developed with a one-story cottage and associated septic system and parking areas. A wetlands corridor with an intermittent watercourse flows east to west across the property, south of the developed cottage area, and toward the Goodwives River, which is located west of the subject property across the roadway. A gazebo and footbridges cross the watercourse. The southern and eastern sections of the property have remained undeveloped and maintained in a natural condition. Environmental features include a wooded upland area with a canopy of mostly broad-leaved deciduous trees and some shrub layer, scrub/shrub wetlands that also contain tiered growth, and an intermittent watercourse with fringe wetlands.

**C. HEARING PRESENTATIONS AND RECORD:**

The hearing presentation and application record include, but is not limited to, the following:

1. Three sheets of drawings and plans prepared for "Somerset Builders, 40 Goodwives River Road, Darien, Connecticut" by Grumman Engineering, LLC,  
(A) Proposed Residence Site Plan dated 06-08-04, last revised 10-12-04.  
  
(B) Proposed Residence Grading & Erosion Control Plan dated 8-18-04 and last revised 10-12-04.  
  
(C) Details & Notes dated 06-08-04 and last revised 8-18-04.
2. Drainage Report – "Drainage Report Prepared for Proposed Site Improvements Located at 42 Goodwives River Road, Darien, Connecticut" by Dean E. Martin, Grumman Engineering, LLC, dated October 11, 2004.
3. Environmental Study – "Environmental Assessment Report, Somerset Builders, 40 Goodwives River Road, Darien, Connecticut" prepared by Environmental Land Solutions, dated July 28, 2004.
4. Soils Report – "Parcels A & B, 40 Goodwives River Road, Darien, CT, To: William W. Seymour & Associates" by Soil Science and Environmental Services, dated August 1, 2003 with marked sketch map.
5. Health Approval for 40 Goodwives River Road, dated December 1, 2004, signed by Vince Proto, RS, Darien Health Department.
6. Letter dated October 13, 2004 from Judy A. Slayback of Environmental Land Solutions.
7. Letter dated October 11, 2004 from Casey Elliot describing the "Proposed Residence" and the Construction Sequence.

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8. Letter dated October 11, 2004 from Casey Elliot requesting a public hearing.
9. "Narrative –dated October 11, 2004 by Donald Perry Strait, Landscape Architect, of Grumman Engineering.
10. Memorandum dated October 8, 2004 concerning Impervious Area.
11. Memorandum dated October 8, 2004 concerning Tree Count.
12. Application for Permission to Conduct a Regulated Activity within an Inland Wetland or Watercourse Area within the Town of Darien, signed by Casey Elliot, dated 10/13/04.
13. Letter of Authorization from (Bonnie) May Richards Tweedy, dated June 8, 2004.
14. Color Photograph of intermittent watercourse.
15. Letter dated October 11, 2004 from Casey Elliot concerning the previous application and alternatives.
16. EPC Resolution Adopted September 15, 2004 regarding EPC-58-2004 (6 pages).
17. Letter to the Environmental Protection Commission from Judith C. Groppa, Executive Director of the Darien Historical Society, dated August 3, 2004.
18. Letters to neighbors, Proof of mailings, certified mail receipt dated October 20, 2004.
19. Abutters' List.
20. GIS Mailing List for 40 Goodwives River Road, Neighbors within 100 feet of Project Area, dated October 18, 2004.
21. Memorandum dated November 4, 2004 to Vince Proto from Nancy Sarner.
22. Letter to Casey Elliot and David Mangini from Nancy H. Sarner, Environmental/GIS Analyst, dated October 18, 2004.

D. ITEMS/ISSUES OF CONCERN TO THE COMMISSION:

1. Impact to Wetlands and Watercourses:

During the two sessions of the public hearing, the Commission heard testimony from, among others, Judith Slayback of Environmental Land Solutions and Dean Martin, P.E. of Grumman Engineering, neighbors and concerned citizens. The Commission reviewed and is familiar with the reports and analysis submitted with the application. The commission concludes that the possible impact to wetlands and watercourses will be minimal and will certainly be substantially less than the impact that could have resulted from the previous proposal. The proposed activities are now farther from the wetlands and watercourse and a more substantial landscaped/buffer area will preclude future

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uses near, and impacts upon, the wetlands and watercourse. Also, a conservation easement is proposed to permanently protect the land on the west side of Goodwives River Road.

2. Impact to Drainage:

The Commission reviewed the October 11, 2004 Drainage Report and heard testimony regarding the proposed stormwater system and post-construction drainage patterns from Mr. Martin and Ms. Slayback. The Commission accepts the testimony from Ms. Slayback that stormwater runoff would be attenuated prior to entering the wetlands, and accepts the findings from Mr. Martin that there would be no increase in peak runoff rates, and therefore to adjacent properties.

3. Review of Feasible and Prudent Alternatives:

Within its review of the proposal, the Commission discussed various alternative plans for the development of the property. The applicant has demonstrated, and the Commission concludes that, due to the location of wetlands, watercourses, and associated regulated areas, it is not feasible to avoid acceptable intrusions upon these regulated areas and that no feasible and prudent alternative development schemes are possible and practical.

E. DECISION:

The Commission hereby approves the proposal and grants the permit with the following stipulations and conditions:

1. This is a conditional approval. Each and all of the conditions herein are an integral part of the Commission's decision. Development and use of the property shall be in accordance with submitted reports, narratives and the following submitted plans -

"Somerset Builders, 40 Goodwives River Road, Darien, Connecticut" by Grumman Engineering, LLC,

(A) Proposed Residence Site Plan dated 06-08-04, last revised 10-12-04.

(B) Proposed Residence Grading & Erosion Control Plan dated 8-18-04 and last revised 10-12-04.

(C) Details & Notes dated 06-08-04 and last revised 8-18-04.

2. This permit also includes the establishment of a conservation easement on the land located to the west of the Goodwives River Road and adjacent to the Goodwives River (upper end of Gorham's Pond). The language of that easement shall specify that the owners of the house lot shall retain the right to have walking access to the water through the easement and the authority to carry small watercraft for personal use in the pond, but otherwise, the easement area shall be maintained as an undeveloped, natural area. The final language of the easement shall be subject to review and action by Town Counsel and the Director of Planning. The map and easement document shall be filed in the Darien Land Records prior to the issuance of a Zoning and/or Building Permit for the proposed house.

3. The wetland restoration/replanting within the project area is an integral part of this approval. The work activity shall not be deemed complete and approval of a Zoning Certificate of Compliance (and the Certificate of Occupancy for the use of the proposed house) cannot be issued until this required planting is conducted and completed.

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4. That a performance bond shall be posted with the Planning and Zoning Office to ensure that the wetland enhancement and planting plan is completed according to the above mentioned approved plans and the compliance with this approval. The bond shall be in the amount of \$5,000. The bond shall be held for two (2) growing seasons. Half of the amount shall be returned after the first growing season (no earlier than one year after the work is completed). The remaining amount shall be returned at the end of the second growing season to ensure that the new plantings are established. Any diseased or dead plantings must be replaced.
5. Since the use of the "living filter" type of a septic system is relatively new and not the conventional type system with which the Commission and the local health official has had much experience, and since the proposed "living filter" septic system is in close proximity to and just uphill of wetlands and watercourses, additional testing and verification of the "living filter" system shall be a condition of this permit. After two years of use and again after 4 1/2 years of use of the septic system, the person or persons who own the property at that time must hire a professional engineer with experience dealing with septic systems, and that engineer must certify in writing to the Commission that the septic system is functioning properly and without adverse impact to water quality and without adversely impacting the downhill wetlands and watercourses. The certification shall follow visual observations of the site and surroundings, water quality tests of surface and subsurface water adjacent to and downhill of the septic system, and other analysis as necessary for the engineer to make a fair and proper evaluation of the effectiveness of the system. If the "living filter" septic system is not functioning as expected or if it is not functioning in a manner acceptable to the Darien Health Official or the Commission, the owner(s) shall immediately correct the problem and/or replace the "living filter" system with a conventional septic system. The written certification shall be submitted to the Commission within 30 months and within 60 months after the septic system has been in use.
6. Sediment and erosion controls shall be installed prior to the commencement of work activity, as shown on the plans listed above. Additional sediment and erosion controls shall be installed by the applicant / permittee as needed by site conditions and/or as directed by the Wetlands Enforcement Officer.
7. The bottom of the silt fence shall be buried a minimum of 6-inches into the soil and shall be backfilled with suitable material. All controls must be inspected daily by the permittee or their representative. Any sagging, undermining, or damage to the silt fence or construction barrier must be repaired immediately.
8. The permittee shall notify the Environmental Protection Commission immediately upon commencement of work and upon its completion.
9. The permittee shall notify the Planning and Zoning Office after the sediment and erosion controls are in place and prior to commencement of excavation or regrading work for each phase of construction. The Commission staff will inspect the erosion controls to make sure that they are sufficient and as per plan. All sediment and erosion control measures must be maintained until all disturbed areas are stabilized and revegetated.

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10. Sediment and erosion controls shown on the plans shall be maintained throughout the construction process and shall only be removed when the disturbed areas have been adequately re-stabilized with suitable vegetation.
11. The work activity is limited to that which is approved. Prior to implementation, any possible revisions to the plans must be submitted to and reviewed by the Planning and Zoning Office to determine conformance to this approval, and may require an amendment approval by the Environmental Protection Commission. Any increase in the extent of regrading, development, disturbance or impacts within the wetlands or watercourse, or regulated area around the wetlands, or other significant amendments to the approved plan will require prior submission to and review by the entire Commission in accordance with Section 7.8 of the Inland Wetlands and Watercourses Regulations of the Town of Darien.
12. This permit does not relieve the applicant of their responsibility to comply with all other applicable rules, regulations, and codes of other Town agencies or other regulating agencies. A copy of these other permits and approvals shall be submitted to the EPC to complete the file.
13. No equipment or material, including without limitation, fill, construction materials, debris, or other items shall be deposited, placed or stored in any wetland, watercourse or setback area, on or off site unless specifically authorized by this permit.
14. The duration of this permit shall be five (5) years and shall expire on the January 5, 2010. All proposed activities must be completed and all conditions of this permit must be met within one (1) year from the commencement of the proposed activity.
15. This permit is not transferable without prior written approval from the Environmental Protection Commission. The person to whom the permit is to be transferred must confirm in writing to the Commission that they are fully aware of the responsibilities involved with the implementation of the permit and that they will be the person responsible for the proper use of the permit.

The motion was seconded by Mr. Lewis. Voting in favor were Mr. Hillman, Mr. Lewis, Mr. Kenyon, Ms. Miller, and Ms. Kirby. Ms. Cameron voted against. Mr. Hutchison abstained because he had not attended all of the Public Hearing. The motion passed and the application was approved by a vote of 5-1-1.

There being no other business, the meeting was then adjourned at 9:35 p.m.

Respectfully Submitted,

David J. Keating